APPENDIX A.

Civilian counsel's letter to the court martial:

The Philippines Herald, Wednesday, Nov. 13, 1940.

His letter sent to the court this morning follows:

"5 Cementina, Pasay, Rizal,
"November 13, 1940.

"The President,
"Court Martial
"Fort William McKinley

"SIR:

"I have the honor to submit herewith my withdrawal as associate defense counsel of Captain Rufo C. Romero for the reasons stated below. In this connection it behooves me to express myself with the same frankness with which the American people are reputed to be. Before proceeding, however, allow me to give a brief summary of the incidents which occurred before the trial of the accused.

"At the very outset the accused Captain Rufo C. Romero engaged the services of Major Thomas A. Lynch to act as his chief defense counsel. Major Lynch, however, had to withdraw in disgust because his communications with the proper authorities at Fort Wm. McKinley were not given proper attention. Then the accused requested for the services of Major Ricardo Poblete and the latter was willing to act as the chief defense counsel of the accused. However, this request after being held in abeyance for sometime was finally turned down by the Chief of Staff of the Philippine Army. This being the case the accused gave up all hopes of choosing the officer to defend him and left this matter entirely in the hands of the U. S. Army authorities. Hence Major Johnston and Captain Ivy were appointed to act as defense counsel of the accused. With this as background, I shall now state the reasons why I withdraw from this case.

"First of all, I feel that the chief defense counsel and his assistant are not sincerely aiding the accused. On the contrary they are at times only strengthening the case

of the prosecution by their silence. The claim that the best interest of the accused could be better served by keeping silent is too far-fetched. I, as mere associate defense counsel, cannot of course go beyond what the chief defense counsel desires.

"In the second place, the accused is not given a fair chance to have his mental condition examined by alienists. After the motion to have the accused examined by medical officers of the U. S. Army has been denied, a request was made to the proper authorities to allow civilian alienists to examine the mental condition of the accused. However, before this request could ever be approved by the commanding officer, the trial judge advocate who is the chief prosecuting officer in this case is given a hand to approve or disapprove the request before the commanding officer gives his final approval. In other words the accused is left at the mercy of the prosecuting officer.

"In the third place I feel that my presence in the court martial is not pleasant to its members. With my withdrawal, the court can now go on with its desire. The accused is even willing to waive his presence in court. Therefore, the prosecution, the court, the defense counsel and the public opinion can now have their 'pound of flesh.' But before I close may I hope that this letter of mine shall serve as warning to the end that we may not witness in this country what Hitler appropriately calls 'the baptism of blood.'

"Very truly yours,

"BENJAMIN C. DE GUZMAN,
"*Associate defense counsel of*
"*the accused Rufo C. Romero*
"(*Capt P. S.*)"

APPENDIX B.

Excerpts from petitioner's statement made before the district court in Seattle, Washington:

Your petitioner was arrested on October 16, 1940, at Pasay, Rizal, P. I., and charged with communicating cer-

tain maps to Anis Gepte and Mariano Cabrera, both of whom are citizens and natives of the Philippines. Following this arrest I was held incommunicado, except to American officers who questioned me with a view to leading me into making self-damaging admissions. At these interviews I volunteered certain information, some of which I summarize as follows: That I have personally investigated and reported in writing two cases in which foreigners were known to have been gathering military information in Bataan; that I have personally raided the home of an alien who had been allowed by the military authorities to reside in the heart of Bataan for 18 years; that I knew of certain persons, whose names I gave to Major Evans, who were engaged in gathering information for an alien power; that one of these men told me that as early as 1928—at which time I was at West Point—a certain world power was already in possession of every single secret map pertaining to the entire island of Luzon, as well as of Corregidor Island.

At the trial my civilian lawyer was told to leave the court room each time the prosecution witness Gepte took the stand. In dismissing this lawyer from the court room, the court stated that the testimony of Gepte was secret. Yet, this very testimony was available to Manila newspapers from day to day; and this very testimony is now available to others in the form record of trial, which record is now before this court.

My request for a Filipino officer, a certain Major Ricardo Poblete, to be my counsel was denied by the Commanding General. I wanted Major Poblete to defend me because he is a lawyer and a Filipino. No reason was given in denying my request for Major Poblete as my counsel.

Two American officers—Major Johnston and Captain Ivy—were appointed to conduct my defense. I never asked for either officer. Neither of them was a lawyer, and, indeed, Captain Ivy was so hostile to me that I was forced to ask that he be dismissed as one of the appointed counsel.

Major Johnston carried on my defense under most disconcerting circumstances. Each time I told him to ask a question that would tend to attack the credibility or

legality of prosecution evidence, he told me that the question was immaterial or that it would only antagonize the court. When, for example, I brought out the fact that Major Evans, under the laws of the Philippines, had no authority to execute a search warrant, Major Johnston stated that it was immaterial. I believe him at the time as I did not know the law.

Nature of maps: Old maneuver maps and they were not war plans maps. They contained information some of which was available to the public. My duties: Habitual keeping of maps at home for 10 years; as topographical officer I correct maps; I took maps out all the time; I was custodian of maps; I always returned to, and got all maps from, Manila. My association with Cabrera and Gepte: My dutes as Intelligence Officer requires the investigation of these persons; I wanted to know who were the foreigners behind these men.

APPENDIX C.

Respondent's incorrect statement as to the record.—Respondent, in his Respondent's Notes on the Record, made an incorrect statement. The untrue statement appears on page 19 of the Transcript as follows: "Romero (R. 288) was for sometime suspected as a Japanese agent". This was called to the attention of the District Judge, and upon investigation, concurred that the statement was incorrect. Examination of the court martial record, which is page 288 as noted by respondent, nor in the entire record would disclose no such statement.